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March 20, 2019

Madison County Planning Department
Attn: Scott Ingmire, Director
P.O. Box 606
North Court Street
County Office Building
Wampsville, New York 13163

**Re: General Municipal Law 239 Referral
Town of Sullivan Town Board**

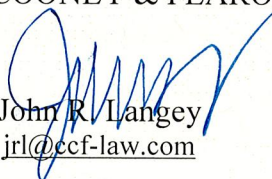
Dear Scott:

Enclosed please find General Municipal Law Section 239 Referral Form along with copy of the Town of Sullivan's proposed Local Law A-2019, titled "A Local Law Imposing a Moratorium on the Review and/or Issuance of Any and All Permits, Certificates, Licenses, Approvals and/or Operation of Commercial Kennels and/or Animal Day Care Facilities in the Town of Sullivan." Said Local Law, if enacted, will impose a nine (9) month moratorium on the review and/or issuance of all permits, certificates, licenses and/or approvals for the construction and/or operation of commercial kennels and animal day care facilities in the Town of Sullivan. Also enclosed in support of this referral, please find a copy of the Introductory Resolution approved at the March 20, 2019 Town of Sullivan Town Board meeting.

Kindly contact the undersigned if you require any additional information. Currently, this matter is scheduled for a **public hearing on April 3, 2019**.

Very truly yours,

COSTELLO, COONEY & FEARON, PLLC


John R. Langey
jrl@ccf-law.com

JRL/dl

Enclosures

cc: Town of Sullivan Town Board
c/o Ms. Pamela Briones, Deputy Town Clerk (w/Referral Form) (*Via E-mail*)
Mr. Phil Costanzo, Codes Enforcement Officer (*Via E-mail*)
Mr. Larry Ball, Codes Enforcement Officer (*Via E-mail*)

GML 239 Referral Notice

To: Madison County Planning Board
Attn: Scott Ingmire, Director
P.O. Box 606
North Court Street
County Office Building
Wampsville, NY 13163
Phone: 366-2376
Fax: 366-2742

From: Municipal Board:
Referring Officer:
Mail Original
resolution to:

Town of Sullivan Town Board
Hon. John M. Becker, Supervisor
Town of Sullivan
7507 Lakeport Road
Chittenango, New York 13037

Copy to:

John R. Langey, Esq.
Costello, Cooney & Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, NY 13204

Re: General Municipal Law § 239 Referral X Informal Review _____ 3-Mile Limit Review _____

1. **Applicant:** Town of Sullivan Town Board 2. **Site Address:** Town-wide
3. **Tax Map Number(s):** N/A 4. **Acres:** _____
5. **Is the site within the county sanitary district?** ☐ Yes ☐ No N/A
6. **Is the site currently serviced by public water?** ☐ Yes ☐ No N/A
7. **On-site waste water treatment is currently provided by:** ☐ Public Sewer or ☐ Septic System N/A
8. **Current Zoning:** _____ 9. **Current Land Use:** _____
10. **Project Description:** Local Law A-2019 - "A Local Law Imposing a Moratorium on the Review and/or Issuance of Any and All Permits, Certificates, Licenses, Approvals and/or Operation of Commercial Kennels and/or Animal Day Care Facilities in the Town of Sullivan".

11. MCPB Jurisdiction

- ☒ **Text Adoption or Amendment**

☐ **Site is located within 500' of:** _____
(Specify by Name)

Check
All
That
Apply

{

☐ **a municipal boundary**
☐ **a state or county thruway/highway/roadway**
☐ **an existing or proposed state or county park/recreation area**
☐ **an existing or proposed county-owned stream or drainage channel**
☐ **a state or county-owned parcel on which a public building or institution is situated**
☐ **a farm operation located in an agricultural district** (Incl Ag Data Statement pursuant to AML §305-a)

Referred Action(s)

If referring multiple, related actions, please identify the referring municipal board if different from above.

12. ☒ **Text Adoption or** ☐ **Amendment** **Referring Board:** Town of Sullivan Town Board

☐ Comprehensive Plan ☒ Local Law ☒ Zoning Ordinance ☐ Other _____

13. ☐ **Zone Change** **Referring Board:** _____

Proposed Zone District: _____ Number of Acres: _____
Purpose of the Zone Change: _____

14. ☐ **Site Plan** ☐ **Project Site Review** **Referring Board:** _____

Proposed Improvements:
Intended Use:
Will the proposed project require a variance? ☐ Yes ☐ No Type: ☐ Area ☐ Use
Specify:
Is a state or county DOT work permit needed? If Yes: ☐ State or ☐ County ☐ No
Specify:

15. ☐ **Special Permit**

Referring Board:

Section of local zoning code that requires a special permit for this use: _____
 Will the proposed project require a variance? ☐ Yes ☐ No Type: ☐ Area ☐ Use

16. ☐ **Subdivision**

Referring Board:

Name of Subdivision: _____ ☐ Preliminary ☐ Final
 Number of Lots: _____ Type: ☐ Commercial/Industrial ☐ Residential ☐ Single/Multi/Both
 (Circle One) (Circle One)
 Is this a cluster subdivision pursuant to Section 278 of the New York State Town Law? ☐ Yes ☐ No
 Will the proposed subdivision require a variance? ☐ Yes ☐ No Type: ☐ Area ☐ Use
 Is a state or county DOT work permit needed? If Yes: ☐ State or ☐ County ☐ No
 Specify: _____

17. ☐ **Variance**

Referring Board:

☐ Area ☐ Use
 Section(s) of local zoning code to which the variance is being sought: _____
 Describe how the proposed project varies from the above code section: _____

SEQR Determination

Action:

Findings:

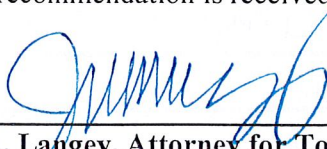
Check One { ☐ Type I ☐ Positive Declaration - Draft EIS
☒ Type II ☐ Conditional Negative Declaration
☐ Unlisted Action ☐ Negative Declaration
☐ Exempt ☒ No Finding (Type II Only)

SEQR determination made by (Lead Agency): Town of Sullivan Town Board Date: March 20, 2019

Attachments

☐ Survey ☐ Subdivision Plat (map) ☐ Environmental Assessment Form ☒ Proposed Text
☐ Site Plan ☐ Local Application Form ☐ Ag Data Statement ☒ Other: **Introductory Resolution**

This referral, as required by GML § 239 l, m & n, includes complete information and supporting materials to assist the Madison County Planning Board (MCPB) in its review. If no formal action is taken by the MCPB within 30 days, the referring board may proceed without the MCPB's recommendation, unless an extension of time is agreed upon or unless the MCPB's recommendation is received 2 days prior to municipal review.


 John R. Langey, Attorney for Town of Sullivan
 Name and Title of Person Completing this Form

March 20, 2019
 Transmittal Date

**TOWN OF SULLIVAN
PROPOSED LOCAL LAW NO. A OF 2019**

**A LOCAL LAW IMPOSING A MORATORIUM ON THE REVIEW AND/OR
ISSUANCE OF ANY AND ALL PERMITS, CERTIFICATES, LICENSES,
APPROVALS AND/OR OPERATION OF COMMERCIAL KENNELS
AND/OR ANIMAL DAY CARE FACILITIES IN THE TOWN OF SULLIVAN**

Be it enacted by the Town of Sullivan Town Board, as follows:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT.

This Local Law is enacted pursuant to the authority of the New York Municipal Home Rule Law. The Town Board of the Town of Sullivan (hereinafter the “Town Board”) has determined that there is a critical and compelling need, and that it is in the best interest of the public, to impose a temporary moratorium on the issuance of any and all permits, certificates, licenses, and approvals (hereinafter collectively referred to as “Approvals”) for the approval and/or operation of commercial kennel and/or animal day care facilities (collectively referred to as “Kennels”) in the Town of Sullivan. The basis for the Town Board’s findings is as follows:

In or around May of 2018 the Town of Sullivan adopted Local Law No. 3 of 2018 to address commercial kennels and/or animal day care uses in the Town. At that time, an initial comprehensive law was adopted to address such uses by a Special Use Permit in the Town’s Agricultural (A), Business (B) and Industrial (I) Districts subject to certain requirements. After adoption of the Law, at least one (1) application was processed by the Town. In reviewing this first application for a large commercial kennel, a number of issues surfaced from concerned residents relative to the impacts of commercial kennels and animal day care uses. As a result, the Town Board is now aware of potential concerns, including environmental aspects, of such uses on particular parcels within the Town. In addition, the reviewing Planning Board has become aware of potential limitations to the Law as currently drafted. As a result, the Town Board has determined that additional review is necessary for potential amendments to the existing Law.

Accordingly, the Board has determined that a moratorium is appropriate in order to review the existing Law, as well as concerns voiced by property owners (including properties situated in close proximity to kennels, in addition to those who wish to operate kennels and animal day care facilities within the Town). As such, it is the intention of the Town Board to preserve the status quo during this period of review and study and to preclude the establishment of any new commercial kennels and/or animal day care facilities within the Town before potential appropriate legislation or amendments thereto are enacted or the Town Board has determined that no further legislation is needed.

SECTION 2. SCOPE AND CONTROL

For a period of nine (9) months following the effective date of this Local Law, or sooner if the Town Board so determines that the intent and purpose of this law has been satisfied, no new commercial kennels and/or animal day care facilities shall be constructed, operated or established within the Town of Sullivan and no applications relating to such uses shall be accepted, processed, considered or granted by the Zoning Board of Appeals, the Planning Board, the Codes Enforcement Office or any other person or entity of the Town.

This prohibition extends to pending as well as future applications in order to avoid a race to apply before this issue can be considered and to maintain status quo during the Board's consideration of this issue.

SECTION 3. CONFLICT WITH OTHER LAWS

This Local Law is enacted pursuant to the Town Law and the Municipal Home Rule Law of the State of New York. For the duration of time that this law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions.

SECTION 4. ENFORCEMENT

This Local Law shall be enforced by the Code Enforcement Officer. It shall be the duty of said officer to advise the Town Board of all matters pertaining to the enforcement of this law and to keep all necessary records appropriate to same.

SECTION 5. VIOLATION

Any persons violating any provisions of this Local Law shall be guilty of an offense and, upon conviction thereof, be punished by a fine not exceeding \$500.00 or imprisonment not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon the Court, violations of this local law shall be deemed a misdemeanor and for such purpose the laws relating to misdemeanors shall apply to such violations for procedural matters. Every day of continued violation after notice shall constitute a separate, additional violation. In addition, the Town Board may also maintain an action or proceeding in the name of the Town in a Court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

SECTION 6. VARIANCES

A. The Town Board reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for a variance shall be filed in triplicate with the Town Clerk together with a filing fee. The application shall specifically identify the property involved, recite the circumstances pursuant to which the variance is sought and the reasons for which the variance is claimed. Any costs, including expert consulting fees or attorneys' fees, incurred by the Town, shall be reimbursed to the Town by the Applicant. Such an application shall be treated as a use variance and the Town Board shall apply the Use Variance criteria as set forth in the New York State Town Law, Section 267-b(2).

C. The Town Board may refer any applications for a variance herein to the Town Planning Board for its advice and recommendations, but all decisions on granting or denying such variances shall be made by the Town Board solely after determining whether or not the requested variance is compatible with any contemplated amendments to the Town Zoning Law. Unless completely satisfied that the proposed variance is compatible, the Town Board shall deny the application.

D. The Town Board shall conduct a public hearing on any request for a variance within forty-five (45) days of receipt by the Town Clerk, and shall issue its final decision on requests for a variance within thirty (30) days from the date of the public hearing.

SECTION 7. SEVERABILITY

Should any section or provision of this Law be deemed invalid, such decision shall not affect the validity of the remaining provisions of this Law.

SECTION 8. EFFECTIVE DATE

This Local Law shall become effective immediately.

**TOWN OF SULLIVAN
TOWN BOARD RESOLUTION**

March 20, 2019

TOWN OF SULLIVAN LOCAL LAW A OF 2019

("A Local Law Imposing a Moratorium on the Review and/or Issuance of
Any and All Permits, Certificates, Licenses, Approvals and/or Operation of
Commercial Kennels and/or Animal Day Care Facilities in the Town of Sullivan")

Councilor Brzuszkiewicz introduced proposed Local Law No. A-2019, "A Local Law Imposing a Moratorium on the Review and/or Issuance of Any and All Permits, Certificates, Licenses, Approvals and/or Operation of Commercial Kennels and/or Animal Day Care Facilities in the Town of Sullivan," and made the following motion which was seconded by Councilor Martin:

WHEREAS, proposed Local Law A-2019 has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law, requires that as early as possible after submission of a completed application, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Sullivan, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said proposed Local Law, with the result that the Town Board shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is a Type II action for purposes of environmental review under SEQRA, thus concluding the environmental review process.

NOW, THEREFORE, BE IT RESOLVED that this proposed Local Law will be referred to the Madison County Planning Board pursuant to New York General Municipal Law §239; and it is further

RESOLVED that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. A-2019 at the Town Hall located at 7507 Lakeport Road, Chittenango, New York on April 3, 2019 at 7:00 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; and be it further

RESOLVED that notice of said public hearing shall be provided at least ten (10) days prior to the date of said public hearing in a newspaper of general circulation within the Town of Sullivan and to any affected municipalities described above.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: March 20, 2019

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Deputy Town Clerk of the Town of Sullivan, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on March __, 2019.

/s/**PAMELA BRIONES**
Deputy Town Clerk

(SEAL)